

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN**

Idala Strouse Gasser and
John Gasser

-Plaintiff

Case No:

vs.

Diversity of Citizenship
Violations of the 4th and 14th Amendment by 42
U.S.C. 1983 and pendent claim under
Wis. Stats. 19.31 et. Seq. with leave to petition
For a Writ of Mandamus

The Village of Pleasant Prairie and
The City of Kenosha and
The County of Kenosha

-Defendant(s)

Complaint

NOW COMES Mrs. Idala Strouse Gasser and Mr. John Gasser, by their attorneys Strouse Law Offices and Napierala Law Offices for a claim and for a Writ of Mandamus to release all data, as set out herein, under 19.31-19.39 to Plaintiffs' counsel without further delay from The Village of Pleasant Prairie, The City of Kenosha and The county of Kenosha, Wisconsin.

PARTIES

1. That Plaintiff Mrs. Idala Strouse Gasser is a married female and resident of the State of Illinois.
2. That Plaintiff Mr. John Gasser is a married male and resident of the State of Illinois.

3. That the Plaintiffs, man and wife, are married to each other.
4. That the City of Pleasant Prairie is a municipal entity within the State of Wisconsin.
5. That the City of Kenosha is a municipal entity within the State of Wisconsin.
6. That the County of Kenosha is a municipal entity within the State of Wisconsin.
7. That all of the Plaintiffs are diverse in citizenship from all of the Defendants and the case involves damages of over \$75,000.00.

Background

8. This matter arises out of an excessive force incident which occurred on 12/10/2018. Plaintiffs anticipate filing a lawsuit against Officer(s) of the Pleasant Prairie Police Department. While in custody for a suspected traffic violation an Officer of the Pleasant Prairie used excessive force against Mrs. Strouse causing her permanent physical injuries. John Gasser ("Mr. Gasser") has been deprived of loss of society as a result. In order for these Plaintiffs to ascertain why Pleasant Prairie Police Officer(s) used excessive force which caused Mrs. Gasser's permanent physical injuries it is necessary for Plaintiffs to obtain all data available. Multiple requests have already been sent to Pleasant Prairie and Kenosha County, but no documents, or adequate explanation has been received by Plaintiffs' counsel.
9. That on 12/10/2018 Idala Strouse Gasser ("Mrs. Gasser") was pulled over by a Pleasant Prairie police officer named Nicholas Brickert in what was documented as "Incident Report 18-019018".
10. That during the course of the traffic stop and later at the Police booking at the Kenosha City Jail, a Pleasant Prairie Police Officer used excessive physical force against Mrs. Gasser, causing her permanent physical injuries in excess of \$75,000.00, violating the 4th and 14th Amendments of the U.S. Constitution.
11. That Plaintiffs have sent three multiple requests to the Village of Pleasant Prairie and to Kenosha County for data regarding the incident, Pleasant Prairie has resisted releasing the booking video, images and data which is the most

compelling piece of evidence regarding the excessive use of force used by the Pleasant Prairie at the Kenosha City Jail or in the alternative Kenosha County Jail.

12. Plaintiffs' Counsel sent Open Records Requests were sent to the Defendant(s) on:

- a. January 10, 2019;
- b. February 20, 2019;
- c. April 30, 2019;
- d. July 30, 2019
- e. September 17, 2019

13. That to date, Plaintiffs, by their counsel, have not received any recorded video, photographic or audio evidence from the Defendant(s) regarding Mrs. Gasser's booking into the Kenosha City Jail.

14. The first letter received from Kenosha County on January 18, 2019 which was nonresponsive.

15. That despite 5 separate requests for the records dating back to January 10, 2019 asking for the very recorded of Mrs. Gasser's booking on September 30, 2019 The County of Kenosha returned (in part) the following response:

- a. The video requested is outside the retention period for video footage retained at the Kenosha County Jail".

16. The Defendants denied access to said data before denying its access or destroying it.

17. This means that Kenosha County either destroyed pertinent records in an ongoing criminal action, or simply refuse to turn over critical evidence no matter how many times the Plaintiffs request the booking video.

18. As a result, the Plaintiffs have been harmed in excess of \$75,000.00.

19. That the Defendants have and had a *non-discretionary* ministerial duty to provide said data to Plaintiffs.

20. That said data will necessarily be used in an imminent federal action for the deprivation of Plaintiffs' rights under the 4th and 14th Amendments

COUNT 1
Writ of Mandamus to Provide Records (pendent to)
Wis. Stat. 19.35(1)(a)
Violation of Open Records Law-
Failure to Provide Requested Records

21. That Plaintiff readopts and re alleges Counts 1-20 as though fully set out herein.
22. That Attorney for Plaintiffs' have made multiple separate requests for the booking video, however the Defendants have either destroyed this evidence or refuse to turn it over.
23. To date, Defendants have not produced the requested information or given any reason for delay or denial.

Prayers For Relief

Wherefore, Plaintiff demands judgment against Defendants and for the Court to enter the following Order

- a. Grant Plaintiffs Leave to File A Writ of Mandamus ordering the Defendants to provide the requested data to Plaintiffs' counsel without further delay;
- b. An award of reasonable attorney's fees, damages of not less than \$100.00 and any other costs and fees under Wis. Stat. 19.37(2);
- c. That if the booking video is not provided without further delay, Plaintiffs pray for an inference of spoliation of evidence and that it shall be presumed.

- d. That the Plaintiffs be given leave to amend this Complaint to plead Excessive Force injuries under the U.S. Constitution and for other relief.

Dated this 10th of April 2020
Attorneys for Plaintiffs,

/s/ Paul A. Strouse
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